

By: Haggerty

H.B. No. 1460

A BILL TO BE ENTITLED

AN ACT

relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (5), (13), (20), and (23-a) and adding Subdivisions (1-a), (17-a), (18-a), and (25) to read as follows:

(1-a) "Affiliate" means a person who, with respect to a license holder, is under the common control of a third person who has the power to:

(A) directly or indirectly vote 25 percent or more interest in the license holder or an entity under the authority of the license holder;

(B) establish policy for the license holder, directly or through a related person; or

(C) hire, elect, or otherwise designate related persons for the license holder.

(5) "Business use" means the use of a manufactured home for a purpose other than as a permanent or temporary dwelling.

(13) "Lease-purchase" means entering into:

(A) a lease contract for a manufactured home in which the lessor retains title; or

(B) another agreement that contains ~~containing~~
a provision conferring on the lessee an option to purchase a

1 manufactured home.

2 (17-a) "New manufactured home" means a manufactured
3 home that is not a used manufactured home, regardless of its age.

4 (18-a) "Related person" means a person who, directly
5 or indirectly with respect to a license holder:

6 (A) participates in management, policy
7 decisions, or day-to-day activities subject to this chapter; or

8 (B) has been found by the department in a final
9 order to be a related person.

10 (20) "Salesperson" means a person who, as an employee
11 or agent of a retailer or broker, sells or lease-purchases or offers
12 to sell or lease-purchase manufactured housing to a consumer [~~for~~
13 ~~any form of compensation~~].

14 (23-a) "Statement of ownership and location" means a
15 statement issued by the department and setting forth:

16 (A) the ownership and location of a manufactured
17 home [~~that has been sold at a retail sale or installed~~] in this
18 state as provided by Section 1201.205; and

19 (B) other information required by this chapter.

20 (25) "Used manufactured home" means a manufactured
21 home for which a statement of ownership and location has been issued
22 or a manufactured home that has been occupied for any use, except
23 that the term does not include:

24 (A) a manufactured home used as a sales model at a
25 licensed retail location; or

26 (B) a manufactured home that:

27 (i) was sold as a new manufactured home;

1 (ii) was installed but never occupied;
2 (iii) had a statement of ownership and
3 location issued with respect to the home; and
4 (iv) was taken back from the consumer
5 because of a first payment default or an agreement to rescind or
6 unwind the transaction.

7 SECTION 2. Section 1201.008, Occupations Code, is amended
8 by adding Subsection (e) to read as follows:

9 (e) Notwithstanding a zoning law or any other law, unless
10 prohibited by an ordinance or charter of a home-rule or general law
11 municipality, if a manufactured home occupies a specific lot in a
12 municipality, the owner of the manufactured home may move the
13 manufactured home from that lot and place another manufactured home
14 on the lot, provided that the replacement is a newer manufactured
15 home and at least as large in living space as the manufactured home
16 that was initially located on the lot.

17 SECTION 3. Section 1201.053(a), Occupations Code, is
18 amended to read as follows:

19 (a) The board [~~director~~] shall adopt rules [~~, issue orders,~~]
20 and otherwise act as necessary to:

21 (1) comply with the National Manufactured Housing
22 Construction and Safety Standards Act of 1974 (42 U.S.C. Section
23 5401 et seq.), including adopting and enforcing rules reasonably
24 required to implement the notification and correction procedures
25 provided by 42 U.S.C. Section 5414; and

26 (2) provide for the effective enforcement of all
27 HUD-code manufactured housing construction and safety standards in

1 order to have the state plan authorized by the National
2 Manufactured Housing Construction and Safety Standards Act of 1974
3 (42 U.S.C. Section 5401 et seq.) approved by the secretary of
4 housing and urban development.

5 SECTION 4. Sections 1201.054(b) and (d), Occupations Code,
6 are amended to read as follows:

7 (b) If requested by any member of the public, the board
8 shall hold a hearing on any rule that the board proposes to adopt,
9 other than a rule proposed for adoption under emergency rulemaking.
10 The board must provide notice of a hearing under this subsection not
11 later than the 10th day before the date the hearing is scheduled to
12 be held. If a rule is adopted under emergency rulemaking, only the
13 requirements of Chapter 2001, Government Code, apply [~~A proposed~~
14 ~~rule must be published in the Texas Register before the 30th day~~
15 ~~preceding the date of a public hearing set to consider the testimony~~
16 ~~of interested persons. Notice of the time and place of the public~~
17 ~~hearing must be published in the Texas Register before the 30th day~~
18 ~~preceding the date of the hearing)].~~

19 (d) A rule takes effect on the 30th day after the date of
20 publication of notice that the rule has been adopted, except that a
21 rule relating to an installation standard [~~standards~~] may not take
22 effect later than the 60th day after the date of publication of
23 notice unless:

24 (1) the board determines that an earlier effective
25 date is required to meet an emergency; and

26 (2) the installation standard is adopted under the
27 emergency rulemaking provisions of Chapter 2001, Government Code.

1 SECTION 5. Section 1201.058, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.058. ~~[AMOUNT OF]~~ FEES. (a) The board shall
4 establish in reasonable amounts ~~[the]~~ fees ~~[imposed under Sections~~
5 ~~1201.055-1201.057 in amounts that are reasonable and necessary]~~ to
6 cover any purpose under ~~[the cost of administering]~~ this chapter.
7 If the department rules under this chapter provide an option to file
8 a document electronically, the department may charge a discounted
9 fee for the electronic filing.

10 (b) Ten dollars of the fee for each purchase, exchange, or
11 lease-purchase of a manufactured home shall be deposited to the
12 credit of the trust fund and used for the protection programs
13 described by Subchapter I.

14 (c) A fee imposed by this chapter or a rule under this
15 chapter is:

16 (1) earned on the date the applicable payment is
17 received by the department; and

18 (2) not subject to refund.

19 (d) Notwithstanding Subsection (c), the director may, in
20 limited and appropriate circumstances and in accordance with rules
21 adopted by the board, approve the refund of fees.

22 SECTION 6. Sections 1201.101(d), (f), and (g), Occupations
23 Code, are amended to read as follows:

24 (d) A person may not act as an installer ~~[perform an~~
25 ~~installation function on manufactured housing]~~ in this state unless
26 the person holds an installer's license.

27 (f) A person may not act as a salesperson of manufactured

1 housing unless the person holds a salesperson's license. A
2 retailer or broker may not employ or otherwise use the services of a
3 salesperson who is not licensed. A licensed salesperson may not
4 participate in a sale of a manufactured home unless the sale is
5 through the retailer or the broker who sponsored the salesperson's
6 application as required by Section 1201.103(d).

7 (g) A person may not make an announcement concerning the
8 sale, exchange, or lease-purchase of, or offer to sell, exchange,
9 or lease-purchase, a manufactured home to a consumer in this state
10 through an advertisement unless the person holds a manufacturer's,
11 retailer's, or broker's license. This subsection does not apply to:

12 (1) a person who is not required to hold a license as
13 described by Section 1201.102 [~~to whom a statement of ownership and~~
14 ~~location has been issued showing the person to be the owner of the~~
15 ~~home if the person does not offer to sell, exchange, or~~
16 ~~lease-purchase two or more manufactured homes in a 12-month~~
17 ~~period~~]; or

18 (2) an advertisement concerning real property on [~~to~~]
19 which there is a manufactured home that has been converted to real
20 property in accordance with Section 1201.2055 [~~permanently~~
21 ~~attached~~].

22 SECTION 7. Sections 1201.102(a), (b), and (c), Occupations
23 Code, are amended to read as follows:

24 (a) A licensed installer may employ an unlicensed person to
25 assist the installer in performing installation functions if the
26 licensed installer supervises the unlicensed person and maintains a
27 list of all unlicensed persons employed. The director may issue an

1 order to prohibit a person who is not licensed as an installer from
2 performing installation functions without the supervision of a
3 licensed installer.

4 (b) A license holder may engage a person who is not licensed
5 under this chapter but holds another license issued by this state to
6 provide goods and services in accordance with that license,
7 including the installation or connection of air conditioning,
8 plumbing, or electrical systems.

9 (c) A person who [~~An employee who acts as an agent of a~~
10 ~~license holder is covered by the holder's license and is not~~
11 ~~required to hold an individual license.~~

12 [~~(b) Except as provided by Section 1201.510, an independent~~
13 ~~contractor or business entity may not operate under the license of~~
14 ~~another business entity except as an agent or subcontractor of a~~
15 ~~licensed installer who is responsible for an installation function~~
16 ~~performed by the agent or subcontractor.~~

17 [~~(c) In the case of a sole proprietorship, partnership, or~~
18 ~~corporation that] holds a retailer's license or a broker's license
19 or who is a related person of that license holder [~~, an owner,~~
20 ~~partner, or officer of that entity] is not required to apply for a
21 salesperson's license [~~if that owner, partner, or officer is~~
22 ~~properly listed in the retailer's or broker's license application].~~~~~~

23 SECTION 8. Section 1201.103, Occupations Code, is amended
24 by amending Subsections (a) and (d) and adding Subsection (c-1) to
25 read as follows:

26 (a) An applicant for a license as a manufacturer, retailer,
27 broker, rebuilder, or installer must file with the director a

1 license application containing:

2 (1) the legal name, address, and telephone number of
3 the applicant and each person who is anticipated to be a related
4 person at the time the license is issued;

5 (2) each [~~the~~] trade name and the name of each business
6 organization [~~name~~] by which the applicant does business under this
7 chapter and [~~, if incorporated, the name registered with the~~
8 ~~secretary of state and~~] the address of each [~~the~~] business
9 organization; [and]

10 (3) the dates on which the applicant became the owner
11 and operator of the business; and

12 (4) each location to which the license will apply.

13 (c-1) The applicant shall maintain, at the applicant's
14 principal office or another location designated by the applicant
15 within this state, all records required of the applicant under this
16 chapter.

17 (d) An applicant for a salesperson's license must:

18 (1) file with the director an application that
19 provides any information the director considers necessary and that
20 is sponsored by a licensed [~~, bonded~~] retailer or broker; and

21 (2) pay the required fee.

22 SECTION 9. Section 1201.104, Occupations Code, is amended
23 to read as follows:

24 Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as
25 provided by Subsection (e), as a requirement [~~prerequisite~~] for a
26 manufacturer's, retailer's, broker's, installer's, or rebuilder's
27 license, a person who was not licensed or registered with the

1 department or a predecessor agency on September 1, 1987, must,
2 within the year preceding the date of the application for the
3 person's initial license under this chapter, attend and
4 successfully complete 20 hours of instruction in the law, including
5 instruction in consumer protection regulations. If the applicant
6 is not an individual, the applicant must employ at least one related
7 person who meets the requirement described by this subsection.

8 (b) Each individual who is a related person of the applicant
9 must attend and successfully complete 20 hours of instruction in
10 the law described by Subsection (a). The individual must complete
11 the next course of instruction offered after the date on which the
12 individual becomes a related person. The individual is
13 automatically barred from acting as a related person until the
14 individual successfully completes the course of instruction
15 required by Subsection (a).

16 (c) An applicant for a salesperson's license must
17 successfully complete the next course of instruction offered after
18 the date the person is licensed. A salesperson who fails to
19 successfully complete the course of instruction described by
20 Subsection (a) will automatically have the person's license
21 suspended until the person successfully completes the course of
22 instruction.

23 (d) ~~The director may not issue a license to that person~~
24 ~~until the course of instruction is completed.~~

25 ~~(b)~~ The course of instruction must be offered at least
26 quarterly.

27 (e) The board shall adopt rules regarding the content of the

1 course of instruction and the requirements for board approval of
2 the course of instruction, including a rule requiring the course to
3 be presented live and a rule prohibiting any electronic
4 transmission of the course.

5 (f) [~~(c)~~ ~~Instead of the course of instruction:~~

6 [(1) ~~a manufacturer may request that an authorized~~
7 ~~representative of the department present a one-day, in-plant~~
8 ~~training program; or~~

9 [(2) ~~the director may approve a training program for a~~
10 ~~license applicant that is conducted by a nonprofit educational~~
11 ~~institution or foundation.~~

12 [~~(d)~~ ~~A manufacturer shall reimburse the department for the~~
13 ~~actual cost of a program presented under Subsection (c)(1).~~

14 [~~(e)~~] Subsection (a) does not apply to a license holder [~~or~~
15 ~~registration holder~~] who applies:

16 (1) for a license for an additional business location;

17 or

18 (2) to renew or reinstate a license [~~, or~~

19 [~~(3)~~ ~~for a salesperson's license~~].

20 (g) Successful passage of an [~~(f)~~ ~~An~~] examination must
21 [may not] be a prerequisite for the successful completion of an
22 initial course of instruction required under this section, but may
23 not be a prerequisite for continuing education courses [~~made a~~
24 ~~prerequisite of licensing~~].

25 SECTION 10. Section 1201.105, Occupations Code, is amended
26 to read as follows:

27 Sec. 1201.105. SECURITY REQUIRED. (a) The department may

1 not issue or renew a license unless a bond or other security in a
2 form prescribed by the director is filed with the department as
3 provided by this subchapter. The bond or other security is payable
4 to the trust fund except for any amount that is due directly to the
5 retailer under this chapter.

6 (b) If a bond is filed, the bond must be issued by a company
7 authorized to do business in this state and must conform to
8 applicable provisions of the Insurance Code. If other security is
9 filed, that security must be maintained in or by a federally insured
10 depository [~~banking~~] institution located in this state.

11 (c) If the department is unable to obtain timely
12 reimbursements from a surety or the department determines that a
13 surety has experienced a deterioration in its financial condition,
14 the board may direct the director to discontinue the acceptance of
15 bonds issued by that surety.

16 SECTION 11. Section 1201.106, Occupations Code, is amended
17 by amending Subsection (a) and adding Subsection (a-1) to read as
18 follows:

19 (a) An applicant for a license or a license holder shall
20 file a bond or other security under Section 1201.105 for the
21 issuance or renewal of a license in the following amount:

22 (1) \$100,000 for a manufacturer;

23 (2) \$50,000 for a retailer's principal location
24 [~~retailer~~];

25 (3) \$50,000 for each additional branch location of a
26 retailer;

27 (4) \$50,000 [~~\$30,000~~] for a rebuilder;

1 (5) [~~(4)~~] \$50,000 for a broker; or

2 (6) \$25,000 [~~(5)~~—\$10,000] for an installer.

3 (a-1) The director may increase the fee amounts under
4 Subsection (a) with respect to the issuance of an initial, renewal,
5 or subsequent license based on an application described by Section
6 1201.118.

7 SECTION 12. Section 1201.108, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION.

10 (a) A new bond is not required for a change in:

11 (1) ownership of a license holder or a business entity
12 under which the [~~corporation that is a~~] license holder conducts
13 business; or

14 (2) location.

15 (b) A license holder shall notify the department not later
16 than the 10th day before the date of a change described in
17 Subsection (a).

18 (c) The license holder shall provide to the department
19 [~~director may require~~] a proper endorsement of the original bond to
20 avoid an interruption in the application of the bond to the license.

21 SECTION 13. Subchapter C, Chapter 1201, Occupations Code,
22 is amended by adding Section 1201.1125 to read as follows:

23 Sec. 1201.1125. PROBATIONARY INSTALLER'S OR SALESPERSON'S
24 LICENSE. (a) An applicant for an initial installer's license
25 receives the license only on a probationary basis until the
26 department inspects a sufficient number of installations performed
27 by the installer and fails to find an identified material violation

1 of this chapter or the rules adopted under this chapter. The board,
2 with the advice of the advisory committee established under Section
3 1201.251, shall adopt rules to determine the number of successful
4 installations required for termination of the probationary period
5 under this subsection.

6 (b) The board shall adopt rules under which the director may
7 elect to issue a renewal installer's license or an initial or
8 renewal salesperson's license on a probationary basis.

9 (c) If the director determines that a salesperson or
10 installer should receive a probationary license under Subsection
11 (b), the director may issue the probationary license on the terms
12 and for the period the director considers reasonable in accordance
13 with the rules adopted under that subsection.

14 (d) A person who is issued a probationary license under
15 Subsection (b) may appeal by written notice to the director the
16 terms of the license or the period for which the license is issued
17 not later than the 30th day after the date the license is issued. If
18 the license holder appeals under this subsection, the director
19 shall set the matter for a hearing to be conducted by the State
20 Office of Administrative Hearings. The hearing and any related
21 administrative proceedings are considered to be a contested case
22 subject to Chapter 2001, Government Code.

23 (e) If the license holder does not appeal as permitted by
24 Subsection (d), the probationary license remains in effect for the
25 period and in accordance with the terms specified in the license.

26 SECTION 14. Section 1201.113, Occupations Code, is amended
27 to read as follows:

1 Sec. 1201.113. [~~CERTIFICATION AND~~] CONTINUING EDUCATION
2 PROGRAMS. (a) The department [~~board~~] shall approve [~~recognize,~~
3 ~~prepare,~~] or administer [~~certification and~~] continuing education
4 programs for license holders [~~salespersons regulated~~] under this
5 chapter. A continuing education program must:

6 (1) be at least six hours in length; and

7 (2) include the current rules of the department under
8 this chapter and other matters the department considers relevant.

9 (b) As a prerequisite for license renewal, a license holder
10 must attend a [~~A person who holds a salesperson's license must~~
11 ~~participate in certification and~~] continuing education course
12 approved or administered by the department under this section
13 [~~programs as provided by Subsection (c)].~~

14 [~~(c) To prepare or administer a certification or continuing~~
15 ~~education program under this section, the board may contract with:~~

16 [~~(1) a private, nonprofit organization that qualifies~~
17 ~~for an exemption from federal income taxation under Section 501(a),~~
18 ~~Internal Revenue Code of 1986, by being listed as an exempt~~
19 ~~organization under Section 501(c)(3) of that code; or~~

20 [~~(2) an educational institution.~~

21 [~~(d) To be considered for a contract under Subsection (c),~~
22 ~~an organization or institution must submit an application. The~~
23 ~~board may charge an application fee to be set by the board in an~~
24 ~~amount necessary to pay the costs of processing the application.~~

25 [~~(e) A salesperson must complete eight hours of~~
26 ~~certification and continuing education programs not later than the~~
27 ~~90th day after the date the salesperson's initial license is~~

1 ~~issued. To renew a salesperson's license, a salesperson regulated~~
2 ~~under this chapter must complete an additional eight hours of~~
3 ~~certification and continuing education programs for each renewal.~~
4 ~~The programs must be presented by a board-approved organization or~~
5 ~~educational institution and must include instruction in applicable~~
6 ~~state and federal law, consumer protection regulations, and ethical~~
7 ~~standards.~~

8 ~~[(f) The department shall issue an appropriate certificate~~
9 ~~to a person who completes a certification program and participates~~
10 ~~in a continuing education program under this section.~~

11 ~~[(g) The board shall suspend the license of a salesperson~~
12 ~~regulated under this chapter who does not complete the programs as~~
13 ~~required by this section. The board shall reinstate the license on~~
14 ~~the salesperson's completion of the programs.]~~

15 SECTION 15. Section 1201.114, Occupations Code, is amended
16 to read as follows:

17 Sec. 1201.114. LICENSE EXPIRATION. A license issued under
18 this chapter, other than a probationary license, ~~[(a) A~~
19 ~~manufacturer's, retailer's, broker's, or installer's license is~~
20 ~~valid for one year. A salesperson's license]~~ is valid for two
21 years. A license may be renewed as provided by the director. A
22 person whose license has been suspended or revoked or whose license
23 has expired may not engage in activities that require a license
24 until the license has been reinstated or renewed.

25 ~~[(b) The board by rule may adopt a system under which~~
26 ~~licenses expire on various dates during the year. For the year in~~
27 ~~which the license expiration date is changed, the department shall~~

1 ~~prorate license fees on a monthly basis so that each license holder~~
2 ~~pays only that portion of the license fee that is allocable to the~~
3 ~~number of months during which the license is valid. On renewal of~~
4 ~~the license on the new expiration date, the total license renewal~~
5 ~~fee is payable.]~~

6 SECTION 16. Subchapter C, Chapter 1201, Occupations Code,
7 is amended by adding Section 1201.118 to read as follows:

8 Sec. 1201.118. ADDITIONAL PROCEDURES FOR CERTAIN LICENSE
9 APPLICATIONS. The board shall adopt rules providing for the
10 additional review and scrutiny of an initial, renewal, or
11 subsequent license application that involves an applicant or a
12 related person who has previously:

13 (1) in a final order issued by the department, been
14 found to have:

15 (A) participated in one or more violations of
16 this chapter that served as grounds for the suspension or
17 revocation of a license; or

18 (B) engaged in activity subject to this chapter
19 without holding the required license;

20 (2) caused the trust fund to incur unreimbursed
21 payments or claims; or

22 (3) failed to fulfill the terms of a final order,
23 including the payment of any assessed administrative penalties.

24 SECTION 17. Section 1201.1505, Occupations Code, is amended
25 to read as follows:

26 Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED
27 HOMES. A retailer may require a [~~an earnest money~~] deposit on a

1 specially ordered manufactured home [~~only if:~~

2 [~~(1) an earnest money contract has been signed by all~~
3 ~~parties;~~

4 [~~(2) if applicable, the original binding loan~~
5 ~~commitment letter issued by the lender is delivered to the~~
6 ~~consumer; and~~

7 [~~(3) the consumer has not rescinded the contract under~~
8 ~~Section 1201.1521].~~

9 SECTION 18. The heading to Section 1201.151, Occupations
10 Code, is amended to read as follows:

11 Sec. 1201.151. REFUNDS [~~REFUND OF DEPOSIT~~].

12 SECTION 19. Section 1201.151, Occupations Code, is amended
13 by amending Subsection (a) and adding Subsection (e) to read as
14 follows:

15 (a) Except as otherwise provided by this section, a
16 retailer [~~, salesperson, or agent of the retailer~~] must refund a
17 consumer's deposit not later than the 15th day after the date that a
18 written request for the refund is received from the consumer.

19 (e) Not later than the 15th day after the date a consumer
20 exercises the consumer's right of rescission as provided by Section
21 1201.1521, the retailer shall refund to the consumer all money and
22 other consideration received from the consumer without offset or
23 deduction if the retailer and the consumer entered into a binding
24 written agreement under which the consumer submitted to the
25 retailer a deposit that was a down payment for the home.

26 SECTION 20. Section 1201.1521, Occupations Code, is amended
27 to read as follows:

1 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,
2 OR LEASE-PURCHASE OF HOME. (a) A person who acquires a
3 manufactured home by purchase, exchange, or lease-purchase may, not
4 later than the third day after the date the applicable contract is
5 signed, rescind the contract without penalty or charge. The right
6 of rescission applies only to a transaction between a retailer and a
7 consumer.

8 (b) Subject to rules adopted by the board, a consumer may
9 modify or waive for a bona fide personal financial emergency the
10 consumer's right to rescind the contract without penalty or charge.
11 The rules adopted by the board shall, to the extent practicable, be
12 modeled on the federal rules for the modification or waiver of a
13 right of rescission under Title 12, Code of Federal Regulations,
14 Part 226.

15 SECTION 21. Section 1201.158, Occupations Code, is amended
16 to read as follows:

17 Sec. 1201.158. SALESPERSON. A licensed salesperson may
18 work only for the person's sponsoring [~~for more than one~~] retailer
19 or broker [~~or at more than one sales location~~].

20 SECTION 22. Section 1201.159, Occupations Code, is amended
21 by amending Subsection (a) and adding Subsections (c) and (d) to
22 read as follows:

23 (a) A broker shall ensure that the seller gives the buyer
24 the applicable disclosures and warranties that the buyer would have
25 received if the buyer had purchased the manufactured home through a
26 licensed retailer unless the seller is a consumer in a transaction
27 as provided by Section 1201.456.

1 (c) A broker in a transaction under this chapter shall
2 provide to a person who engages the broker's services a written
3 disclosure of any interest that the broker represents in the
4 transaction.

5 (d) A broker may assist a person who is offering or
6 otherwise engaging in the sale, exchange, or lease-purchase of a
7 manufactured home only if that person holds a license required by
8 this chapter.

9 SECTION 23. Section 1201.161, Occupations Code, is amended
10 by amending Subsections (a) and (d) and adding Subsection (e) to
11 read as follows:

12 (a) Notwithstanding any other statute or rule or ordinance,
13 a licensed retailer or licensed installer is not required to obtain
14 a permit, certificate, or license or pay a fee to transport
15 manufactured housing to the place of installation except as
16 required by~~+~~

17 ~~[(1) the department, or~~

18 ~~[(2)]~~ the Texas Department of Transportation under
19 Subchapter E, Chapter 623, Transportation Code.

20 (d) The copies of permits and the lists and information
21 required under this section may be provided electronically.

22 (e) The department shall pay the reasonable cost of
23 providing the materials required [~~copies or the list and~~
24 ~~information~~] under Subsection (b) or (c) unless the materials are
25 provided electronically.

26 SECTION 24. Sections 1201.162(a) and (e), Occupations Code,
27 are amended to read as follows:

1 (a) Before the completion of a credit application or not
2 later than one day before entering into an agreement for a sale,
3 exchange, or lease-purchase that will not be financed, the retailer
4 [~~or agent~~] must provide to the consumer a written disclosure in a
5 form prescribed by rules adopted by the board. The disclosure form
6 shall:

7 (1) be printed in at least 12-point type;

8 (2) address matters of concern relating to the costs
9 and obligations that may be associated with manufactured home
10 ownership, matters to be considered in making any financing
11 decisions, related costs that may arise in acquiring a manufactured
12 home, and other matters the board considers appropriate to promote
13 informed decision-making by the consumer with respect to the
14 acquisition and ownership of a manufactured home; and

15 (3) conspicuously disclose the consumer's right of
16 rescission. [~~the following statement that is printed in at least~~
17 ~~12-point type and not attached to or combined with any other written~~
18 ~~material.~~

19 [~~When buying a manufactured home, there are a number of~~
20 ~~important considerations, including price, quality of~~
21 ~~construction, features, floor plan, and financing alternatives.~~

22 [~~The United States Department of Housing and Urban~~
23 ~~Development (HUD) helps protect consumers through regulation and~~
24 ~~enforcement of HUD design and construction standards for~~
25 ~~manufactured homes. Manufactured homes that meet HUD standards are~~
26 ~~known as 'HUD-code manufactured homes.'~~ The Texas Department of
27 ~~Housing and Community Affairs regulates Texas manufacturers,~~

1 ~~retailers, brokers, salespersons, installers, and rebuilders of~~
2 ~~manufactured homes.~~

3 ~~["If you plan to place a manufactured home on land that you~~
4 ~~own or will buy, you should consider items such as:~~

5 ~~["ZONING AND RESTRICTIVE COVENANTS. Municipalities or~~
6 ~~subdivisions may restrict placement of manufactured homes on~~
7 ~~certain lots, may prohibit the placement of homes within a certain~~
8 ~~distance from property lines, may require that homes be a certain~~
9 ~~size, and may impose certain construction requirements. You may~~
10 ~~need to obtain building permits and homeowner association approval~~
11 ~~before you place a manufactured home on a certain lot. Contact the~~
12 ~~local municipality, county, and subdivision manager to find out if~~
13 ~~you can place the manufactured home of your choice on a certain lot.~~

14 ~~["WATER. Be sure that your lot has access to water. If you~~
15 ~~must drill a well, contact several drillers for bids. If water is~~
16 ~~available through a municipality, utility district, water~~
17 ~~district, or cooperative, you should inquire about the rates you~~
18 ~~will have to pay and the costs necessary to join the water system.~~

19 ~~["SEWER. If your lot is not serviced by a municipal sewer~~
20 ~~system or utility district, you will have to install an on-site~~
21 ~~sewer facility (commonly known as a septic system). There are a~~
22 ~~number of concerns or restrictions that will determine if your lot~~
23 ~~is adequate to support an on-site sewer facility. Check with the~~
24 ~~local county or a licensed private installer to determine the~~
25 ~~requirements that apply to your lot and the cost to install such a~~
26 ~~system.~~

27 ~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have~~

1 ~~mandatory assessments and fees that lot owners must pay. Check with~~
2 ~~the manager of the subdivision in which your lot is located to~~
3 ~~determine if any fees apply to your lot.~~

4 ~~["TAXES. Your home will be appraised and subject to ad~~
5 ~~valorem taxes as are other single-family residential structures.~~
6 ~~These taxes must be escrowed with your monthly payment, except that~~
7 ~~your lender is not obligated to impose an escrow requirement in a~~
8 ~~real property transaction involving a manufactured home if the~~
9 ~~lender is a federally insured financial institution and does not~~
10 ~~otherwise require the escrow of taxes, insurance premiums, fees, or~~
11 ~~other charges in connection with loans secured by residential real~~
12 ~~property. On closing, you will be notified of all provisions~~
13 ~~pertaining to federal truth in lending disclosures.~~

14 ~~["INSURANCE. Your lender may require you to obtain insurance~~
15 ~~that meets lender requirements and protects your investment. You~~
16 ~~should request quotes from the agent of your choice to obtain the~~
17 ~~insurance.~~

18 ~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a~~
19 ~~manufactured home may be financed by a real estate mortgage or a~~
20 ~~chattel mortgage. A real estate mortgage may have a lower interest~~
21 ~~rate than a chattel mortgage.~~

22 ~~["RIGHT OF RESCISSION. If you acquire a manufactured home,~~
23 ~~by purchase, exchange, or lease-purchase, you may, not later than~~
24 ~~the third day after the date the applicable contract is signed,~~
25 ~~rescind the contract without penalty or charge."]~~

26 (e) Failure by the retailer to comply with the disclosure
27 provisions of this section does not affect the validity of a

1 subsequent conveyance or transfer of title of a manufactured home
2 or otherwise impair a title or lien position of a person other than
3 the retailer. The consumer's execution of a signed receipt of a
4 copy of the notice required by Subsection (a) constitutes
5 conclusive proof that the notice was delivered. If the consumer
6 grants a person other than the retailer a lien on the manufactured
7 home, the right of rescission immediately ceases on the date the
8 lien is filed with the department.

9 SECTION 25. Section 1201.164, Occupations Code, is amended
10 to read as follows:

11 Sec. 1201.164. ADVANCE COPY OF [~~INSTALLMENT~~] CONTRACT AND
12 DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction
13 that is to be financed and that will not be subject to the federal
14 Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533)
15 [~~chattel mortgage transaction involving an installment contract~~],
16 a retailer shall deliver to a consumer at least 24 hours before the
17 contract is fully executed the contract, with all required
18 information included, signed by the retailer. The delivery of the
19 [~~installment~~] contract, with all required information included,
20 signed by the retailer constitutes a firm offer by the retailer.
21 The consumer may accept the offer not earlier than 24 hours after
22 the delivery of the contract. If the consumer has not accepted the
23 offer within 72 hours after the delivery of the contract, the
24 retailer may withdraw the offer.

25 (b) Before the execution of the contract, the consumer may
26 modify or waive the consumer's right to rescind the contract or the
27 waiting period provided by Subsection (a) if the consumer

1 determines that the acquisition of the manufactured home is needed
2 for a bona fide personal financial emergency. If the consumer has a
3 bona fide personal financial emergency that requires the immediate
4 acquisition of the manufactured home, the consumer shall give the
5 retailer a dated written statement that describes the personal
6 financial emergency, specifically modifies or waives the waiting
7 period or the right of rescission, as applicable, and bears the
8 signature of each consumer who is entitled to the waiting period or
9 right of rescission. On receipt of the written statement described
10 by this subsection, the retailer shall immediately provide to the
11 consumer all of the disclosures required by this subchapter and
12 engage in the transaction without reference to the required waiting
13 period or the right of rescission.

14 (c) A form printed for the purpose of Subsection (b) may be
15 used only:

16 (1) with respect to a manufactured home that is to be
17 located in an area that has been declared by the governor to be a
18 disaster area as provided by Section 418.014, Government Code; and

19 (2) until the first anniversary of the date the
20 governor declared the area to be a disaster area.

21 SECTION 26. Section 1201.203, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.203. FORMS; RULES. (a) The board [~~director~~]
24 shall [~~prescribe forms and~~] adopt rules and forms relating to:

- 25 (1) the manufacturer's certificate;
26 (2) the statement of ownership and location;
27 (3) the application for a statement of ownership and

1 location; and

2 (4) the issuance of an initial or revised [~~a~~]
3 statement of ownership and location [~~at the first retail sale and~~
4 ~~for a subsequent sale or transfer of a manufactured home~~].

5 (b) The board [~~director~~] shall adopt rules for the
6 documenting of the ownership and location of a manufactured home
7 that has been previously owned in this state or another state. The
8 rules must protect the holder of a lien [~~a lienholder~~] recorded with
9 the department [~~on a statement of ownership and location, a~~
10 ~~certificate, or other document of title~~].

11 SECTION 27. Section 1201.204, Occupations Code, is amended
12 to read as follows:

13 Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A
14 manufacturer's certificate must show:

15 (1) on a form prescribed by the board [~~director~~] or on
16 another document, the original transfer of a manufactured home from
17 the manufacturer to the retailer; and

18 (2) on a form prescribed by the board [~~director~~], each
19 subsequent transfer of a manufactured home between retailers and
20 from retailer to owner, if the transfer from retailer to owner
21 involves a completed application for the issuance of a statement of
22 ownership and location.

23 (b) At the first retail sale of a manufactured home, a
24 manufacturer's certificate automatically converts to a document
25 that does not evidence any ownership interest in the manufactured
26 home described in the document. A security interest in inventory
27 evidenced by a properly recorded inventory lien [~~the manufacturer's~~

1 ~~certificate~~] automatically converts to a security interest in
2 proceeds and cash proceeds.

3 (c) After the first retail sale of a manufactured home, the
4 retailer shall ~~may~~ submit the manufacturer's certificate for that
5 home to the department. If an application for an initial statement
6 of ownership and location is made without the required
7 manufacturer's certificate and the retailer does not produce the
8 certificate as required by this subsection, the department shall,
9 on or before the issuance of the requested statement of ownership
10 and location, send written notice to that effect to each party
11 currently reflected in the department's records as having a
12 recorded lien on the inventory of that retailer. Failure to include
13 the manufacturer's certificate with an application described by
14 this subsection does not impair a consumer's ability to obtain, on
15 submitting an otherwise complete application, a statement of
16 ownership and location free from a lien other than a lien created by
17 or consented to by the consumer.

18 SECTION 28. Section 1201.205, Occupations Code, is amended
19 to read as follows:

20 Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A
21 statement of ownership and location must be issued on a
22 board-approved form and must provide:

23 (1) the name ~~[names]~~ and address ~~[addresses]~~ of the
24 ~~[purchaser and]~~ seller and the name and address of the new owner, if
25 the owner's address is different from the address of the home;

26 (2) the manufacturer's name and address and any model
27 designation, if available;

1 (3) in accordance with the board's [~~director's~~] rules:

2 (A) the outside dimensions of the manufactured
3 home when installed for occupancy, as measured to the nearest
4 one-half foot at the base of the home, exclusive of the tongue or
5 other towing device; and

6 (B) the approximate square footage of the home
7 when installed for occupancy;

8 (4) the identification number for each section or
9 module of the home;

10 (5) the physical address of the real property on [the
11 ~~county of this state in]~~ which the home has been [~~is~~] installed for
12 occupancy, including the name of the county and, if different from
13 the address of the home, the address of the new owner of the home;

14 (6) in chronological order of recordation, the date of
15 each lien other than a tax lien on the home and the name and address
16 of each lienholder, or, if a lien is not recorded, a statement of
17 that fact;

18 (7) a statement regarding tax liens which must state:

19 "On January 1st of each year, a tax lien is placed on a
20 manufactured home in favor of each taxing unit with taxing
21 authority over the real property on which the home is located. To
22 enforce that lien, the lien must be recorded with the manufactured
23 housing division of the Texas Department of Housing and Community
24 Affairs, as provided by law. You may check that division's records
25 through its Internet website or contact the division to identify
26 any recorded tax liens. To identify the amount of unpaid tax
27 liability, contact the taxing unit for the county in which the home

1 is located on January 1st of that year" [~~the signature of the owner~~
2 ~~in ink, given on receipt of the document~~];

3 (8) a statement that if two or more eligible persons,
4 as determined by Section 1201.213, file with the application for
5 the issuance of a statement of ownership and location an agreement
6 signed by all the persons providing that the home is to be held
7 jointly with a right of survivorship, the director shall issue the
8 statement of ownership and location in all the names;

9 (9) [~~the location of the home;~~

10 [~~(10)~~] a statement of whether the owner has elected to
11 treat the home as real property or personal property;

12 (10) [~~(11)~~] statements of whether the home is a
13 salvaged manufactured home and whether the home is reserved for
14 business use only; and

15 (11) [~~(12)~~] any other information the board
16 [~~director~~] requires.

17 SECTION 29. Section 1201.2055, Occupations Code, is amended
18 by amending Subsection (b) and adding Subsections (i) and (j) to
19 read as follows:

20 (b) A statement of election under Subsection (a) must be
21 executed before a notary on the board-approved form [~~made by~~
22 ~~affidavit~~].

23 (i) Notwithstanding Subsection (d), if a mortgage loan made
24 in connection with a transaction under this chapter is to be secured
25 by real property that includes the manufactured home, the mortgage
26 loan is funded, and a deed of trust covering the real property and
27 all improvements on the real property is recorded, but the licensed

1 title company or attorney who closed the loan failed to complete the
2 conversion of the manufactured home to real property in accordance
3 with this chapter, the holder or servicer of the mortgage loan at
4 any time may apply for a statement of ownership and location,
5 including making an election in the application with respect to
6 real property status, and may obtain from the department a
7 certified copy of the statement of ownership and location if, not
8 later than the 60th day before the date of an application for a
9 statement of ownership and location electing real property status,
10 the record owner of the home, as reflected in the department's
11 records, has been provided written notice by certified mail at:

12 (1) the physical address of the location of the home
13 and, if the address of the record owner is different from that of
14 the location of the home, the mailing address of the owner; and

15 (2) any other location known or believed after a
16 reasonable inquiry by the holder or servicer of the loan to be an
17 address at which the owner may receive mail or an address of record.

18 (j) The board by rule shall require evidence that the
19 mortgage loan holder or servicer applying for a real property
20 election has complied with the requirements of this section.

21 SECTION 30. Section 1201.206, Occupations Code, is amended
22 by amending Subsections (b), (c), (d), and (f) and adding
23 Subsections (g) through (i) to read as follows:

24 (b) At the first retail sale of a manufactured home, the
25 retailer shall provide for the installation of the home and ensure
26 that the application for the issuance of a statement of ownership
27 and location is properly completed and submitted. The consumer

1 shall return the completed application to the retailer. The
2 retailer shall surrender to the department the manufacturer's
3 certificate in accordance with Section 1201.204 and the
4 manufacturer's statement of origin at the same time that the
5 retailer submits the application for the first statement of
6 ownership and location.

7 (c) Not later than the 60th [~~30th~~] day after the date of the
8 retail sale, the retailer shall provide to the department the
9 completed application for the issuance of a statement of ownership
10 and location. If for any reason the retailer does not timely comply
11 with this subsection, the consumer may apply for the issuance of a
12 statement of ownership and location.

13 (d) Not later than the 60th [~~30th~~] day after the date of each
14 subsequent sale or transfer of a home that is considered to be
15 personal property, the seller or transferor shall provide to the
16 department a completed application for the issuance of a new
17 statement of ownership and location. If for any reason the seller
18 or transferor does not timely comply with this subsection, the
19 consumer may apply for the issuance of a statement of ownership and
20 location.

21 (f) If the owner of a manufactured home relocates the home,
22 the owner shall apply for the issuance of a new statement of
23 ownership and location not later than the 60th [~~30th~~] day after the
24 date the home is relocated. The department shall require that the
25 owner submit evidence that the home was relocated in accordance
26 with the requirements of the Texas Department of Transportation.

27 (g) If the seller accepts a used manufactured home as part

1 of the consideration for the sale of another manufactured home, the
2 seller shall provide to the department a completed application for
3 the issuance of a new statement of ownership and location
4 reflecting the change of ownership of the used manufactured home
5 from the previous owner of the used manufactured home to the seller
6 at the same time that the seller files the completed application for
7 the issuance of a statement of ownership and location for the
8 manufactured home that was sold by the seller in that transaction.
9 If the seller is a retailer, on the application for the issuance of
10 the new statement of ownership and location for the used
11 manufactured home the seller shall indicate whether that home has
12 been added to the inventory of the retailer.

13 (h) At the time the seller files an application for the
14 issuance of a statement of ownership and location for a used
15 manufactured home that has not been added to a retailer's
16 inventory, the seller shall file with the department a written
17 statement from the tax assessor-collector that there are no
18 personal property taxes on the manufactured home that have accrued
19 within the 18-month period preceding the date of the transaction in
20 which the seller acquired the used manufactured home.

21 (i) If a person who sells a manufactured home to a consumer
22 for residential use fails to file with the department the
23 application for the issuance of a statement of ownership and
24 location and the appropriate filing fee within the applicable
25 period, the department may assess an additional fee of not less than
26 \$100 against the seller. The department may enforce the collection
27 of the additional fee from the seller through a judicial

1 proceeding. The department shall place on the application for the
2 statement of ownership and location the following statement in a
3 clear and conspicuous manner:

4 "THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT
5 OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE
6 OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF AT
7 LEAST ONE HUNDRED DOLLARS (\$100). A LATE APPLICATION CANNOT BE
8 PROCESSED UNTIL THE FEE DESCRIBED BY THIS PARAGRAPH IS PAID IN
9 FULL."

10 SECTION 31. Subchapter E, Chapter 1201, Occupations Code, is
11 amended by adding Section 1201.2061 to read as follows:

12 Sec. 1201.2061. NOTICE OF INSTALLATION. (a) A notice of
13 installation must be filed with the department on the board's
14 prescribed form. If the installation involves a secondary
15 relocation of the home, the notice must be accompanied by:

16 (1) a copy of the original notice of installation; or

17 (2) certification that a copy of the original notice
18 of installation has been provided to the chief appraiser of the
19 county in which the home is installed.

20 (b) The notice required by Subsection (a) may be delivered
21 by certified mail or by electronic transmission of the document in a
22 commonly readable format.

23 (c) If the method to report the installation of a relocated
24 home is the method specified by Subsection (a)(2), the department
25 may adopt a discounted fee for filing the notice of installation.

26 (d) In addition to providing each tax assessor-collector
27 with the monthly report required by Section 1201.220, the

1 department shall, on request, provide a tax assessor-collector with
2 one copy of any reported notice of installation.

3 SECTION 32. Subchapter E, Chapter 1201, Occupations Code,
4 is amended by adding Section 1201.2062 to read as follows:

5 Sec. 1201.2062. DIFFICULTY IN DOCUMENTING CHAIN OF TITLE.
6 Notwithstanding any provision in this chapter, if a person acquires
7 a manufactured home and the owner of record and an intervening owner
8 of a lien on the home cannot be located to assist in documenting the
9 chain of title, the department may issue a statement of ownership
10 and location to the person claiming ownership if that person
11 submits an application for the statement and provides:

12 (1) a supporting affidavit describing the chain of
13 title and the status of any liens; and

14 (2) any reasonable supporting proof that the director
15 may require.

16 SECTION 33. Section 1201.207, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND
19 LOCATION. (a) Except as provided for in Subsection (a-1), the
20 [The] department shall process any completed application for the
21 issuance of a statement of ownership and location not later than the
22 15th working day after the date the application is received by the
23 department. If the department rejects an application, the
24 department shall provide a clear and complete explanation of the
25 reason for the rejection and instructions on how to cure any
26 defects, if possible.

27 (a-1) As soon as practicable after June 30 of each year, the

1 department shall, except for applications relating to new
2 manufactured homes and applications accompanied by tax
3 certificates, discontinue its issuance of statements of ownership
4 and location until all tax liens filed with the department before
5 June 30 in relation to manufactured homes are processed and
6 recorded or rejected. The department shall post on its Internet
7 website a notice as to the anticipated date on which the department
8 intends to begin issuing statements of ownership and location again
9 and the anticipated date on which the department intends to again
10 comply with the period for processing applications prescribed by
11 Subsection (a).

12 (b) If the department issues a statement of ownership and
13 location for a manufactured home, the department shall maintain a
14 record of the statement of ownership and location in its electronic
15 records [~~place in its files the original statement of ownership and~~
16 ~~location~~] and shall mail a [~~certified~~] copy to the record owner of
17 the home and to each [~~any~~] lienholder.

18 (c) Except with respect to any change in use, but subject to
19 Section 1201.2075, if the department has issued a statement of
20 ownership and location for a manufactured home, the department may
21 issue a subsequent statement of ownership and location for the home
22 only if all parties reflected in the department's records as having
23 an interest in the manufactured home give their written consent or
24 release their interest, [~~either~~] in writing, [~~or~~] by operation of
25 law, or by the department's procedures provided by Section
26 1201.2062 to document ownership and lien status. After the
27 department has issued a statement of ownership and location, the

1 department may not alter the record of the ownership or lien status
2 of a manufactured home for activity that occurred before the
3 issuance of the statement of ownership and location unless the
4 department:

5 (1) obtains the written permission of the owner of
6 record for the manufactured home or a court order; or

7 (2) determines that an exception is necessary in
8 accordance with rules adopted by the board.

9 (d) Notwithstanding any other provision of this chapter, if
10 the consumer purchases a new manufactured home from a retailer in
11 the ordinary course of business, regardless of whether a statement
12 of ownership and location has been issued for the manufactured
13 home, the consumer is a bona fide purchaser for value without the
14 need to provide any notice and is entitled to ownership of the
15 manufactured home free of all liens and entitled to a statement of
16 ownership and location to that effect on payment by the consumer of
17 the purchase price to the retailer. If an existing lien on the
18 manufactured home is perfected with the department, the owner of
19 the lien is entitled to recover the value of the lien from the
20 retailer.

21 SECTION 34. Section 1201.2075, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL
24 PROPERTY. (a) Except as provided by Subsection (b) or Section
25 1201.2062, the department may not issue a statement of ownership
26 and location for a manufactured home that is being converted from
27 personal property to real property until:

1 (1) each lien on the home is released by the
2 lienholder; or

3 (2) each lienholder gives written consent, to be
4 placed on file with the department.

5 (b) The department may issue a statement of ownership and
6 location before the release of any liens or the consent of any
7 lienholders as required by this section [~~only~~] if the department
8 releases a certified copy of the statement to:

9 (1) a licensed title insurance company that has issued
10 a commitment to issue a title insurance policy covering all prior
11 liens on the home in connection with a loan that the title company
12 has closed; or

13 (2) a federally insured financial institution or
14 licensed attorney who has obtained from a licensed title insurance
15 company a title insurance policy covering all prior liens on the
16 home.

17 SECTION 35. Section 1201.2076, Occupations Code, is amended
18 to read as follows:

19 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL
20 PROPERTY. (a) Except as provided by Subsection (b) or Section
21 1201.2062, the [~~The~~] department may not issue a statement of
22 ownership and location for a manufactured home that is being
23 converted from real property to personal property until the
24 department has inspected the home and determined that it is
25 habitable and has notified the appropriate tax assessor-collector
26 of the conversion and:

27 (1) each lien, including a tax lien, on the home is

1 released by the lienholder; or

2 (2) each lienholder, including a taxing unit, gives
3 written consent, to be placed on file with the department.

4 (b) The department may rely on a commitment for title
5 insurance, a title insurance policy, or an attorney's title opinion
6 to determine that a lien on real property has been released as
7 required by Subsection (a).

8 SECTION 36. Section 1201.208, Occupations Code, is amended
9 to read as follows:

10 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF
11 STATEMENT OF OWNERSHIP AND LOCATION. (a) A license holder who
12 sells, exchanges, or lease-purchases a new manufactured home to a
13 consumer shall pay the required sales and use tax on the home [~~The~~
14 ~~department may not issue a statement of ownership and location for a~~
15 ~~new manufactured home installed for occupancy in this state unless~~
16 ~~the state sales and use tax has been paid~~].

17 (b) If a license holder sells, exchanges, or
18 lease-purchases a home without paying the required sales and use
19 tax, the payment shall be made from the trust fund for an amount not
20 more than the maximum amount available in bond or other security
21 required by Section 1201.106 for the person's license. The trust
22 fund may file with the license holder's surety a claim for
23 reimbursement in the amount deducted from the trust fund under this
24 section [~~Proof of payment may be shown in any manner prescribed by~~
25 ~~the department~~].

26 SECTION 37. Section 1201.210, Occupations Code, is amended
27 by amending Subsection (c) and adding Subsection (d) to read as

1 follows:

2 (c) A notice of appeal and request for hearing must be filed
3 with the director not later than the 30th day after the date of
4 notice of the director's action. If an appeal is not timely made,
5 the revocation or suspension described in the notice becomes final.

6 (d) The department shall prohibit any activity with respect
7 to the statement of ownership and location other than the
8 recordation of liens, including tax liens, until a revocation or
9 suspension has become final.

10 SECTION 38. Section 1201.214(b), Occupations Code, is
11 amended to read as follows:

12 (b) An owner or lienholder may provide to the department a
13 [~~the~~] document of title and any additional information required by
14 the department and request that the department issue a statement of
15 ownership and location to replace the document of title. The
16 department shall mail to the owner or lienholder a certified copy of
17 the statement of ownership and location issued under this
18 subsection.

19 SECTION 39. Section 1201.216(a), Occupations Code, is
20 amended to read as follows:

21 (a) If the owner of a manufactured home notifies the
22 department that the owner intends to treat the home as real property
23 or to reserve its use for a business purpose or salvage, the
24 department shall indicate on the statement of ownership and
25 location for the home that:

26 (1) the owner of the home has elected to treat the home
27 as real property or to reserve its use for a business purpose or

1 salvage; and

2 (2) except as provided by Section 1201.2055(h), the
3 home is [~~department~~] no longer [~~considers the home to be~~] a
4 manufactured home for purposes of regulation under this chapter or
5 recordation of liens, including tax liens.

6 SECTION 40. Section 1201.217, Occupations Code, is amended
7 by amending Subsections (b) and (c) and adding Subsection (f) to
8 read as follows:

9 (b) Before declaring a manufactured home abandoned, the
10 owner of real property on which the home is located must send a
11 notice of intent to declare the home abandoned to the record owner
12 of the home, [~~and~~] all lienholders at the addresses listed on the
13 home's statement of ownership and location on file with the
14 department, and the tax assessor-collector for each taxing unit
15 that imposes ad valorem taxes on the real property on which the home
16 is located. The notice must include the physical address at which
17 the home is currently located. If the person giving notice knows
18 that the person for whom the notice is intended does not reside and
19 is no longer receiving mail at that address, a reasonable effort
20 shall be made to locate the person for whom the notice is intended
21 and to give the person notice at an address where the person
22 receives mail. Mailing of the notice by certified mail, return
23 receipt requested, postage prepaid, to the persons required to be
24 notified by this subsection constitutes conclusive proof of
25 compliance with this subsection.

26 (c) On receipt of a notice of intent to declare a
27 manufactured home abandoned, the owner of the home or a lienholder

1 may enter the real property on which the home is located to remove
2 the home. The real property owner must disclose to the owner or
3 lienholder seeking to remove the home the location of the home and
4 must grant that person reasonable access to the home. A person who
5 removes the home is responsible to the real property owner for any
6 damage to the real property resulting from the removal of the home.

7 (f) This section does not apply if the person who owns or
8 previously owned an interest in the manufactured home, or that
9 person's affiliate or related person:

10 (1) owns the real property on which the home is
11 located; or

12 (2) claims that the home is abandoned.

13 SECTION 41. Sections 1201.219(a), (b), and (c), Occupations
14 Code, are amended to read as follows:

15 (a) A lien on manufactured homes in inventory is perfected
16 only by filing the lien [a security agreement] with the department
17 on the required form [in a form that contains the information the
18 director requires]. Once perfected, the lien applies to the
19 manufactured homes in the inventory as well as to any proceeds from
20 the sale of those homes. The department may suspend or revoke the
21 license of a retailer who fails to satisfy a perfected inventory
22 lien under the terms of the security agreement.

23 (b) Except as provided by Subsection (a), a lien on a
24 manufactured home is perfected only by filing with the department
25 the notice of lien on the required [a] form [provided by the
26 department]. The form must require the disclosure of the original
27 dollar amount of the lien as well as the name and address of the

1 person in whose name the manufactured home is listed on the tax
2 roll. The department on its Internet website shall disclose the
3 date of each lien filing and the original amount of the lien claimed
4 in each filing and shall provide a notice that the amount shown does
5 not include additional amounts such as interest, penalties, and
6 attorney's fees. The statement required by Section 1201.205(7)
7 [recording of a lien with the department] is notice to all persons
8 that the lien exists. Except as expressly provided by Chapter 32,
9 Tax Code, a lien recorded with the department has priority,
10 according to the chronological order of recording, over another
11 lien or claim against the manufactured home. The tax
12 assessor-collector for any taxing unit with the power to tax the
13 manufactured home shall file any appropriate tax lien on the home. A
14 single filing by a tax assessor-collector is a filing for each
15 taxing unit for which the tax assessor is empowered to collect.

16 (c) Notwithstanding any other provision of this or any other
17 law [subchapter], the filing of a lien [security agreement by a
18 secured party perfecting a lien] on the inventory of a retailer does
19 not prevent a buyer in the ordinary course of business, as defined
20 by Section 1.201, Business & Commerce Code, from acquiring good and
21 marketable title free of that lien [interest], and the department
22 may not consider that [security interest as a] lien for the purpose
23 of title issuance.

24 SECTION 42. Section 1201.220, Occupations Code, is amended
25 to read as follows:

26 Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR.

27 (a) The department shall provide to each county tax

1 assessor-collector in this state a monthly report that, for each
2 manufactured home reported in the notice of installation to the
3 department as having been installed in the county during the
4 preceding month and for each manufactured home previously installed
5 in the county for which a transfer of ownership was recorded by the
6 issuance of a statement of ownership and location during the
7 preceding month, lists:

- 8 (1) the name of the owner of the home;
- 9 (2) the name of the manufacturer of the home, if
10 available;
- 11 (3) the model designation of the home, if available;
- 12 (4) the identification number of each section or
13 module of the home;
- 14 (5) the address or location where the home was
15 reported as ~~is~~ installed; and
- 16 (6) the reported date of the installation of the home.

17 (b) The director shall provide a copy of the report to the
18 chief appraiser of the appraisal district established for the
19 county in which the home is reported as installed.

20 SECTION 43. Section 1201.251, Occupation Code, is amended
21 by amending Subsection (a) and adding Subsection (d) to read as
22 follows:

23 (a) In accordance with Subsection (d), the board [~~The~~
24 ~~director~~] shall adopt standards and requirements for:

- 25 (1) the installation and construction of manufactured
26 housing that are reasonably necessary to protect the health,
27 safety, and welfare of the occupants and the public; and

1 (2) the construction of HUD-code manufactured homes in
2 compliance with the federal standards and requirements established
3 under the National Manufactured Housing Construction and Safety
4 Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

5 (d) To ensure that the standards and requirements adopted
6 under this section are recommended by qualified persons, the board
7 may adopt rules that provide for the approval of foundation systems
8 and devices by licensed engineers. A generic installation standard
9 adopted by rule shall first be reviewed by an advisory committee
10 established by the board. The advisory committee must include one
11 or more engineers in addition to representatives of manufacturers,
12 installers, and manufacturers of stabilization systems or devices.
13 The advisory committee shall submit a report to the board providing
14 each comment and concern regarding any proposed rule. The members
15 of the committee are not personally liable for providing the advice
16 to the board.

17 SECTION 44. Section 1201.253, Occupations Code, is amended
18 to read as follows:

19 Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The
20 director shall publish notice and conduct a public hearing [~~in~~
21 ~~accordance with Sections 1201.054 and 1201.060]~~ before:

22 (1) adopting a standard or requirement authorized by
23 this subchapter;

24 (2) amending a standard authorized by this subchapter;
25 or

26 (3) approving a standard proposed by a local
27 governmental unit under Section 1201.252.

1 SECTION 45. Section 1201.255, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a)
4 Except as authorized under Section 1201.252, manufactured housing
5 that is installed must be installed in compliance with the
6 standards and rules adopted and orders issued under this chapter.
7 An uninstalled manufactured home may not be occupied for any
8 purpose [~~issued by the director~~].

9 (b) An installer may not install a manufactured home at a
10 location that has evidence of ponding, run-off under heavy rains,
11 or bare uncompacted soil unless:

12 (1) the installer obtains the owner's signature on a
13 form adopted by the board disclosing that such conditions may
14 contribute to problems with the stabilization system for that
15 manufactured home, including possible damage to that home; and

16 (2) the owner accepts that risk in writing.

17 SECTION 46. Section 1201.301(b), Occupations Code, is
18 amended to read as follows:

19 (b) In enforcing this chapter, the director may authorize a
20 state inspector to travel inside or outside of the state to inspect
21 the [a manufacturing] facility of a license holder.

22 SECTION 47. The heading to Section 1201.302, Occupations
23 Code, is amended to read as follows:

24 Sec. 1201.302. INSPECTION BY STATE AGENCIES AND LOCAL
25 GOVERNMENTAL UNITS [~~ENTITIES OTHER THAN DEPARTMENT~~].

26 SECTION 48. Section 1201.302(a), Occupations Code, is
27 amended to read as follows:

1 (a) To ensure that a manufactured home sold or installed in
2 this state complies with the standards code, the director may by
3 contract provide for [~~a federal agency or~~] an agency or political
4 subdivision of this state or another state to perform an inspection
5 or inspection program under this chapter or under rules adopted by
6 the board [~~director~~].

7 SECTION 49. Subchapter G, Chapter 1201, Occupations Code,
8 is amended by adding Section 1201.306 to read as follows:

9 Sec. 1201.306. ENGINEER APPROVAL OF INSPECTION COMPONENTS.
10 In the inspection of the installation of a manufactured home under
11 this chapter the department may use or permit the use of a device or
12 procedure that has been reviewed and approved by a licensed
13 engineer if the use complies with any instructions, conditions, or
14 other requirements specified by that engineer.

15 SECTION 50. Sections 1201.351(a) and (b), Occupations Code,
16 are amended to read as follows:

17 (a) The manufacturer of a new HUD-code manufactured home
18 shall warrant, in a separate written document, that:

19 (1) the home is constructed or assembled in accordance
20 with all building codes, standards, requirements, and regulations
21 prescribed by the United States Department of Housing and Urban
22 Development under the National Manufactured Housing Construction
23 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
24 and

25 (2) the home and all appliances and equipment included
26 in the home are free from defects in materials or workmanship, other
27 than cosmetic defects.

1 (b) The manufacturer's warranty is in effect until at least
2 the first anniversary of the date of initial installation of the
3 home at the consumer's homesite or the date of closing of the
4 consumer's acquisition of a new home that has already been
5 installed, as applicable.

6 SECTION 51. Section 1201.352, Occupations Code, is amended
7 to read as follows:

8 Sec. 1201.352. RETAILER'S WARRANTY ON NEW HOME. (a) The
9 retailer of a new HUD-code manufactured home shall warrant to the
10 consumer in writing that:

11 (1) installation of the home at the initial homesite
12 was or will be, as applicable, completed in accordance with all
13 department standards, rules, orders, and requirements; and

14 (2) appliances and equipment included with the sale of
15 the home and installed by the retailer are or will be:

16 (A) installed in accordance with the
17 instructions or specifications of the manufacturers of the
18 appliances or equipment; and

19 (B) free from defects in materials or
20 workmanship, except as provided by Subsection (a-1).

21 (a-1) The retailer may expressly disclaim or limit any
22 warranty regarding cosmetic defects.

23 (b) The retailer's warranty on a new HUD-code manufactured
24 home is in effect until the first anniversary of the date of the:

25 (1) [date of] initial installation of the home at the
26 consumer's homesite; or

27 (2) closing of the consumer's acquisition of the home

1 if the home has already been installed.

2 (c) Before the signing of a binding retail installment sales
3 contract or other binding purchase agreement on a new HUD-code
4 manufactured home, the retailer must give the consumer a copy of:

5 (1) the manufacturer's warranty;

6 (2) the retailer's warranty;

7 (3) the warranties given by the manufacturers of
8 appliances or equipment included with the home; and

9 (4) the name and address of the manufacturer or
10 retailer to whom the consumer is to give notice of a warranty
11 service request.

12 (d) Not later than the 30th day after the date of
13 installation of the home, the retailer shall deliver to the
14 consumer a copy of the warranty given to the retailer by the
15 licensed installer.

16 SECTION 52. Section 1201.353, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a)
19 The consumer shall give written notice to the manufacturer, ~~or~~
20 retailer, or installer, as applicable, of a need for warranty
21 service or repairs.

22 (b) Written notice to the department is considered to be
23 notice to the manufacturer, ~~or~~ retailer, or installer beginning
24 on the third business day after the date the department forwards to
25 the applicable license holder the notice by regular mail or by
26 electronic mail as a scanned copy of the notice.

27 SECTION 53. Section 1201.354, Occupations Code, is amended

1 to read as follows:

2 Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The
3 manufacturer, ~~or~~ retailer, or installer, as applicable, shall
4 take appropriate corrective action within a reasonable period as
5 required by department rules to fulfill the written warranty
6 obligation.

7 SECTION 54. Section 1201.355, Occupations Code, is amended
8 by amending Subsections (a) and (b) and adding Subsection (d) to
9 read as follows:

10 (a) If the manufacturer, ~~or~~ retailer, or installer does
11 not provide the consumer with proper warranty service, the consumer
12 may, at any time, request the department to perform a consumer
13 complaint home inspection. The department may not charge a fee for
14 the inspection.

15 (b) On payment of the required inspection fee, the
16 manufacturer, ~~or~~ retailer, or installer may request the
17 department to perform a consumer complaint home inspection if the
18 manufacturer or retailer:

19 (1) believes the consumer's complaints are not covered
20 by the warranty of the manufacturer, ~~or~~ retailer, or installer,
21 as applicable;

22 (2) believes that the warranty service was properly
23 provided; or

24 (3) disputes responsibility concerning the warranty
25 obligation.

26 (d) Notwithstanding any other provision of this section,
27 the department may perform a home inspection at any time if the

1 department determines that there is a reasonable possibility that a
2 condition of the manufactured home may present an imminent threat
3 to public health or safety. The department shall obtain an
4 inspection search warrant if required by other law.

5 SECTION 55. Section 1201.356, Occupations Code, is amended
6 by amending Subsections (a), (b), and (c) and adding Subsections
7 (f), (g), and (h) to read as follows:

8 (a) Not later than the 10th day after the date of a consumer
9 complaint home inspection, the department shall send a written
10 report and any order to the consumer, manufacturer, installer, and
11 retailer by certified mail, return receipt requested.

12 (b) The report shall specify:

13 (1) each of the consumer's complaints; and

14 (2) whether the complaint is covered by either the
15 manufacturer's, installer's, or retailer's warranty and, if so,
16 which of those warranties.

17 (c) The director shall issue to the manufacturer, installer,
18 installer, or retailer an appropriate order for corrective action
19 by the manufacturer, installer, or retailer, specifying a
20 reasonable period for completion of the corrective action.

21 (f) The installer and retailer are responsible for the
22 warranty of installation on new HUD-code manufactured homes. If
23 the department determines that a complaint is covered by the
24 installation warranty, the director shall issue to the installer an
25 order requiring corrective action. If the installer fails to
26 perform the corrective action, the installer is subject to the
27 provisions of Section 1201.357 and the director shall issue the

1 same order for corrective action to the retailer with an additional
2 period, not to exceed 10 days, allowed for performing the
3 corrective action, unless additional time for compliance is needed,
4 as established by a showing of good cause by the retailer.

5 (g) If the retailer is required to perform the corrective
6 action under Subsection (f) because of the installer's failure to
7 comply with the director's order, the retailer may seek
8 reimbursement from the installer.

9 (h) Notwithstanding Subsection (f), the period for
10 performing the required warranty work may be shortened by the
11 director as much as reasonably possible if the warranty work may be
12 necessary to address an imminent threat to public health or safety.

13 SECTION 56. Section 1201.357, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a) If
16 the manufacturer, ~~[or]~~ retailer, or installer, as applicable, fails
17 to provide warranty service within the period specified by the
18 director ~~[under Section 1201.356]~~, the manufacturer, ~~[or]~~
19 retailer, or installer must show good cause in writing as to why the
20 manufacturer, ~~[or]~~ retailer, or installer failed to provide the
21 service.

22 (b) If the manufacturer, ~~[or]~~ retailer, or installer, as
23 applicable, fails or refuses to provide warranty service in
24 accordance with the department order under Section 1201.356, the
25 director shall hold an informal meeting ~~[a hearing]~~ at which the
26 manufacturer, ~~[or]~~ retailer, or installer must show cause as to why
27 the manufacturer's, ~~[or]~~ retailer's, or installer's license should

1 not be suspended or revoked. The consumer may express the
2 consumer's views at the informal meeting. Following the meeting,
3 the director shall:

4 (1) resolve the matter by agreed order;

5 (2) dismiss the matter if no violation is found to have
6 occurred; or

7 (3) institute an administrative action that may
8 include suspension, revocation, assessment of administrative
9 penalties, or any combination of those actions.

10 (c) If the manufacturer, ~~or~~ retailer, or installer is
11 unable to provide warranty service in accordance with the
12 department order under Section 1201.356 as a result of an action of
13 the consumer, the manufacturer, ~~or~~ retailer, or installer must
14 make that allegation in the written statement required by
15 Subsection (a). The department shall investigate the allegation,
16 and if the department determines that the allegation is credible,
17 the department shall issue a new order specifying the date and time
18 of the proposed corrective action. The department shall send the
19 order to the consumer and the manufacturer, ~~or~~ retailer, or
20 installer, as applicable, by certified mail, return receipt
21 requested. If the consumer refuses to comply with the department's
22 new order, the manufacturer, ~~or~~ retailer, or installer, as
23 applicable:

24 (1) is discharged from the obligations imposed by the
25 relevant department orders;

26 (2) has no liability to the consumer with regard to
27 that warranty; and

1 (3) is not subject to an action by the department for
2 failure to provide warranty service.

3 SECTION 57. Section 1201.358, Occupations Code, is amended
4 to read as follows:

5 Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; ADDITIONAL
6 ORDERS ISSUED BY DIRECTOR [~~HEARING RESULTS~~]. (a) Failure by the
7 manufacturer, ~~[or]~~ retailer, or installer, as applicable, to show
8 good cause under Section 1201.357(a) is a sufficient basis for
9 suspension or revocation of the manufacturer's, ~~[or]~~ retailer's, or
10 installer's license.

11 (b) If [~~after the hearing under Section 1201.357(b), the~~
12 ~~director determines that the order under Section 1201.356 was~~
13 ~~correct in the determination of the warranty obligation of the~~
14 ~~manufacturer or retailer, failure or refusal by the manufacturer or~~
15 ~~retailer to comply with the order is a sufficient cause for~~
16 ~~suspension or revocation of the manufacturer's or retailer's~~
17 ~~license. If]~~ the director determines that the order issued under
18 Section 1201.357 was incorrect regarding the warranty [~~that~~
19 obligation, the director shall issue a final order stating the
20 correct obligation and the right of the manufacturer or retailer to
21 indemnification from the other.

22 (c) The director may issue an order:

23 (1) directing a manufacturer, ~~[or]~~ retailer, or
24 installer whose license is not revoked and who is not out of
25 business to perform the warranty obligation of a manufacturer, ~~[or]~~
26 retailer, or installer whose license is revoked or who is out of
27 business; and

1 (2) giving the manufacturer or retailer performing the
2 obligation the right of indemnification against the other.

3 (d) A manufacturer, ~~[or]~~ retailer, or installer entitled to
4 indemnification under this section is a consumer for purposes of
5 Subchapter I and may recover actual damages ~~[and attorney's fees]~~
6 from the trust fund.

7 SECTION 58. Section 1201.361, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.361. INSTALLER'S WARRANTY. (a) For each
10 installation ~~[all secondary installations not covered by the~~
11 ~~retailer's warranty described by Section 1201.352 and for the~~
12 ~~installation of all used manufactured homes]~~, the installer shall
13 give ~~[the manufactured home owner]~~ a written warranty that the
14 installation of the home was performed in accordance with all
15 department standards, rules, orders, and requirements. The
16 retailer who is responsible for the installation of a new HUD-code
17 manufactured home shall give the manufactured home owner the
18 warranty for the installation. If the retailer subcontracts the
19 installation to a licensed installer, the retailer and installer
20 are jointly and severally liable for performance of the warranty.

21 (b) The warranty must conspicuously disclose the
22 requirement that the consumer notify the installer of any claim in
23 writing in accordance with the terms of the warranty. Unless the
24 warranty provides for a longer period, the installer has no
25 obligation or liability under a warranty for a new manufactured
26 home for any defect described in a written notice received from the
27 consumer more than one year ~~[two years]~~ after the date of

1 acquisition of a home that has already been installed, as
2 applicable, or the date of the installation.

3 SECTION 59. Subchapter H, Chapter 1201, Occupations Code,
4 is amended by adding Section 1201.362 to read as follows:

5 Sec. 1201.362. ADDITIONAL CORRECTIVE ACTION
6 AUTHORITY. Notwithstanding the limitations and terms of a
7 warranty, if during any inspection the department identifies an
8 aspect of an installation that does not conform to the applicable
9 requirements, the director may:

10 (1) order the license holder who performed the
11 installation to correct the defect; or

12 (2) if that license holder is no longer licensed,
13 issue an order directing another licensed installer to correct the
14 installation and reimburse the installer from the trust fund for
15 the costs of that corrective action.

16 SECTION 60. Section 1201.402(a), Occupations Code, is
17 amended to read as follows:

18 (a) The director shall administer the trust fund [~~as trustee~~
19 ~~of that fund~~].

20 SECTION 61. Section 1201.404(b), Occupations Code, is
21 amended to read as follows:

22 (b) The trust fund and the director are not liable to the
23 consumer if the trust fund does not have the money necessary to pay
24 the actual damages [~~and attorney's fees~~] determined to be payable.
25 The director shall record the date and time of receipt of each
26 verified complaint and, as money becomes available, pay the
27 consumer whose valid claim is the earliest by date and time.

1 SECTION 62. Section 1201.405, Occupations Code, is amended
2 by adding Subsections (f) and (g) to read as follows:

3 (f) The trust fund is not liable and the director may not pay
4 attorney's fees or actual damages:

5 (1) to reimburse an affiliate or related person of a
6 license holder, unless the director issues an order under Section
7 1201.358(c);

8 (2) to correct a defect that is solely cosmetic in
9 nature; or

10 (3) to address matters not provided for in this
11 subchapter, unless those matters involve:

12 (A) a breach of warranty;

13 (B) a failure to return or apply in accordance
14 with a written agreement money received from a consumer or to which
15 the consumer was entitled; or

16 (C) the breach of an agreement to provide goods
17 or services necessary to the safe and habitable use of a
18 manufactured home, including an agreement for goods or services
19 involving steps, air conditioning, access to utilities, or sewage
20 and wastewater treatment.

21 (g) The board by rule may place reasonable limits on the
22 costs that may be approved for payment from the trust fund,
23 including payments made under Section 1201.358, and may require
24 consumers making claims that may be subject to reimbursement from
25 the trust fund to provide reasonable estimates establishing those
26 costs. The rules adopted by the board may specify procedures and
27 requirements the board considers necessary and advisable for the

1 administration of the trust fund.

2 SECTION 63. Section 1201.406, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND. (a)
5 To recover from the trust fund, a consumer must file a written,
6 sworn complaint in the form required by the director not later than
7 the second anniversary of:

8 (1) the date of the alleged act or omission causing the
9 actual damages; or

10 (2) the date the act or omission is discovered or
11 should reasonably have been discovered.

12 (b) On receipt of a verified complaint, the department
13 shall:

14 (1) notify each appropriate license holder and the
15 issuer of any surety bond related to the license; [~~and~~]

16 (2) investigate the claim;

17 (3) issue a preliminary determination on the claim;

18 and

19 (4) give the consumer, the license holder, and any
20 surety related to the license:

21 (A) an opportunity to resolve the matter by
22 agreement; or

23 (B) the opportunity to dispute the preliminary
24 determination.

25 (c) If the matter is not resolved as provided by Subsection
26 (b)(4) before the 30th day after the date the preliminary
27 determination is issued, the preliminary determination

1 automatically becomes final and the director shall make demand on
2 the surety or deduct any payable amount of the claim from the
3 license holder's security [~~to determine:~~

4 [(A) ~~the validity of the claim; and~~

5 [(B) ~~whether the complaint can be resolved by~~
6 ~~remedial action of the license holder]~~.

7 SECTION 64. Section 1201.407, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE
10 RESOLUTION PROCESS. (a) If a preliminary determination is
11 disputed, the [~~license holders or a license holder and a consumer~~
12 ~~disagree as to responsibility for a complaint, the]~~ department
13 shall conduct an informal dispute resolution process, including a
14 home inspection if appropriate, to resolve the dispute.

15 (b) For a preliminary determination that had been disputed
16 [~~claim determined]~~ to become final and [~~be~~] valid, the department
17 shall make any changes in the determination the director considers
18 to be appropriate and issue another written [~~a~~] preliminary
19 determination [~~during the informal dispute resolution process]~~ as
20 to the responsibility and liability of the manufacturer, retailer,
21 broker, and installer.

22 (c) Before making a final determination, the department
23 shall provide a license holder a period of 10 days [~~an opportunity]~~
24 to comment on the preliminary determination.

25 (d) After considering the comments made in relation to the
26 preliminary determination, if any, the director shall issue a final
27 determination.

1 (e) Not later than the 10th day after the date of its
2 issuance, the final determination may be appealed to the board by
3 giving written notice to the director, who shall submit the matter
4 to the board for consideration at the next meeting for which the
5 matter can be publicly posted in the manner as required by Chapter
6 551, Government Code.

7 (f) Any license [~~The department shall notify a license~~
8 ~~holder's surety and give the surety an opportunity to participate~~
9 ~~in the informal dispute resolution process if the license holder:~~

10 [~~(1) is out of business;~~

11 [~~(2) is no longer licensed; or~~

12 [~~(3) has filed for liquidation or reorganization in~~
13 ~~bankruptcy.~~

14 [~~(c) If, after receiving notice of the claim, a license~~
15 ~~holder or the license holder's surety fails or refuses to~~
16 ~~participate in the informal dispute resolution process, the~~
17 ~~license] holder or surety, as applicable, is bound by the~~

18 department's final determination of responsibility and liability.
19 SECTION 65. Sections 1201.409(a) and (b), Occupations Code,
20 are amended to read as follows:

21 (a) Except as otherwise provided by Subchapter C, the trust
22 fund shall be reimbursed by the surety on a bond or from other
23 security filed under Subchapter C for the amount of a claim that [+

24 [~~(1)] is paid out of the trust fund by the director to~~
25 a consumer in accordance with this subchapter [~~, and~~

26 [~~(2) resulted from an act or omission of the license~~
27 ~~holder who filed the bond or other security)].~~

1 (b) Payment by the surety or from the other security must be
2 made not later than the 30th day after the date of [~~receipt of~~]
3 notice from the director that a consumer claim has been paid.

4 SECTION 66. Section 1201.410, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.410. CONSUMER INFORMATION [~~INFORMATIONAL~~
7 ~~PAMPHLET~~]. [~~(a)~~] The director shall prepare information for [~~a~~
8 ~~pamphlet informing~~] consumers of their rights to recover from the
9 trust fund. The director shall make the information available to
10 consumers:

11 (1) on the department's Internet website; and

12 (2) in hard-copy format to any member of the public who
13 submits a request for the information.

14 [~~(b) The director may contract with a private party for the~~
15 ~~printing and distribution of the pamphlet.~~]

16 SECTION 67. Section 1201.451(b), Occupations Code, is
17 amended to read as follows:

18 (b) Not later than the 60th [~~30th~~] day after the effective
19 date of the transfer of ownership or the date the seller or
20 transferor obtains possession of the necessary and properly
21 executed documents, the seller or transferor shall forward to the
22 purchaser or transferee the necessary, executed documents. On
23 receipt of the documents, the purchaser or transferee shall apply
24 for the issuance of a statement of ownership and location. If the
25 seller or transferor fails to forward to the purchaser or
26 transferee the necessary, executed documents as required by this
27 subsection, the purchaser or transferee may apply directly for the

1 issuance of a statement of ownership and location.

2 SECTION 68. Section 1201.453, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.453. HABITABILITY. Manufactured housing is
5 habitable only if:

6 (1) there is no defect or deterioration in or damage to
7 the home that creates a dangerous situation;

8 (2) the plumbing, heating, and electrical systems are
9 in safe working order;

10 (3) the walls, floor, and roof are:

11 (A) free from a substantial opening that was not
12 designed; and

13 (B) structurally sound; and

14 (4) all exterior doors and windows are in place and
15 operate properly.

16 SECTION 69. Section 1201.457(b), Occupations Code, is
17 amended to read as follows:

18 (b) A person may not [~~The purchaser of a used manufactured~~
19 ~~home for business use or the purchaser of a salvaged manufactured~~
20 ~~home may not sell, exchange, or lease-purchase the home for use as a~~
21 ~~dwelling or~~] knowingly allow another [~~any~~] person to occupy or use
22 the home as a dwelling unless the director issues a new statement of
23 ownership and location indicating that the home is no longer
24 reserved for business use or salvage. On the purchaser's
25 application to the department for issuance of a new statement of
26 ownership and location, the department shall inspect the home and,
27 if the department determines that the home is habitable, issue the

1 statement of ownership and location.

2 SECTION 70. Section 1201.459, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR
5 COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured home
6 to collect delinquent taxes, a tax assessor-collector [~~collector~~]
7 is not required to comply with this subchapter or another provision
8 of this chapter relating to the sale of a used manufactured home.

9 (b) If the home does not have a serial number, seal, or
10 label, a tax appraiser or a [~~the~~] tax assessor-collector
11 [~~collector~~] may:

- 12 (1) apply to the department for a seal;
13 (2) pay the applicable fee; and
14 (3) recover that fee as part of the cost of the sale of
15 the home.

16 (b-1) The tax appraiser or the tax assessor-collector
17 assumes full responsibility for affixing to the home a seal issued
18 to the tax appraiser or the tax assessor-collector under Subsection
19 (b).

20 (c) A [~~The~~] seal issued to the tax appraiser or the tax
21 assessor-collector [~~collector~~] is for identification purposes only
22 and does not imply that:

- 23 (1) the home is habitable; or
24 (2) a purchaser of the home at a tax sale may obtain a
25 new statement of ownership and location from the department without
26 an inspection for habitability.

27 SECTION 71. Section 1201.461, Occupations Code, is amended

1 by adding Subsections (g) and (h) to read as follows:

2 (g) A political subdivision of this state that identifies a
3 manufactured home within its jurisdiction as a salvaged
4 manufactured home may impose with respect to that home an
5 inspection, a requirement for corrective action, or other
6 requirements that would apply if the home were not a salvaged
7 manufactured home.

8 (h) A license holder may not participate in the sale,
9 exchange, lease-purchase, or installation for use as a dwelling of
10 a manufactured home that is salvaged and that has not been repaired
11 as required by this chapter and the rules adopted under this
12 chapter. The sale, exchange, lease-purchase, or installation of a
13 salvaged manufactured home for use as a dwelling constitutes an
14 imminent threat to public health or safety. A license holder that
15 participates in a sale, exchange, lease-purchase, or installation
16 in violation of this section:

17 (1) is subject to the imposition of penalties and
18 other sanctions provided for in this chapter; and

19 (2) commits an offense punishable as a Class B
20 misdemeanor.

21 SECTION 72. Section 1201.503, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a
24 consumer of a new manufactured home to which a label has been
25 attached and before installation of the home, a manufacturer,
26 retailer, broker, or installer may not alter the home or cause the
27 home to be altered without obtaining prior written approval from a

1 licensed engineer and delivering that written approval to the
2 department.

3 SECTION 73. Section 1201.506(a), Occupations Code, is
4 amended to read as follows:

5 (a) A retailer or broker:

6 (1) shall comply with Subtitles A and B, Title 4,
7 Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601
8 et seq.); ~~and~~

9 (2) may not advertise an interest rate or finance
10 charge that is not expressed as an annual percentage rate; and

11 (3) shall comply with all applicable provisions of the
12 Finance Code.

13 SECTION 74. Section 1201.509, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.509. PROHIBITED RETENTION OF DEPOSIT. A
16 retailer [~~, salesperson, or agent of the retailer~~] may not refuse to
17 refund a consumer's deposit except as provided by Section 1201.151.

18 SECTION 75. Subchapter K, Occupations Code, is amended by
19 adding Section 1201.513 to read as follows:

20 Sec. 1201.513. DISPOSITION OF CERTAIN USED MANUFACTURED
21 HOMES; OCCUPANCY OF HOMES PRIOR TO CLOSING. (a) A retailer may not
22 sell or otherwise transfer a used manufactured home acquired in
23 exchange for another manufactured home before completing the
24 transaction involving the other manufactured home.

25 (b) A retailer may not knowingly permit a consumer to occupy
26 a manufactured home that is the subject of a sale, exchange, or
27 lease-purchase before the closing of any required financing unless

1 the consumer is first given a form adopted by the board disclosing
2 that if for any reason the financing does not close, the consumer
3 may be required to vacate the home.

4 SECTION 76. Section 1201.551, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY
7 ACTION. (a) The director [~~, after notice as provided for under~~
8 ~~Section 1201.054 and a hearing as provided by Sections 1201.054 and~~
9 ~~1201.060,~~] may deny, permanently revoke, or suspend for a definite
10 period and specified sales location or geographic area a license if
11 the director determines that the applicant or license holder:

12 (1) knowingly and wilfully violated this chapter or a
13 rule adopted or order issued under this chapter;

14 (2) unlawfully retained or converted money, property,
15 or any other thing of value from a consumer in the form of a down
16 payment, sales or use tax, deposit, or insurance premium;

17 (3) repeatedly failed to file with the department
18 completed applications [~~timely provide to a consumer an~~
19 ~~application~~] for statements [~~a statement~~] of ownership and location
20 in the time and manner required by this chapter [~~and any information~~
21 ~~necessary to complete the application~~];

22 (4) failed to give or breached a manufactured home
23 warranty required by this chapter or by the Federal Trade
24 Commission;

25 (5) engaged in a false, misleading, or deceptive act
26 or practice as described by Subchapter E, Chapter 17, Business &
27 Commerce Code;

1 (6) failed to provide or file a report required by the
2 department for the administration or enforcement of this chapter;

3 (7) provided false information on an application,
4 report, or other document filed with the department;

5 (8) acquired a criminal record during the five-year
6 period preceding the application date that, in the opinion of the
7 director, makes the applicant unfit for licensing; ~~[or]~~

8 (9) failed to file a bond or other security for each
9 location as required by Subchapter C; or

10 (10) has had any other license issued by this state
11 revoked or suspended by this state or a political subdivision or
12 agency of this state.

13 (b) The director ~~[department]~~ may suspend or revoke a
14 license if, after receiving notice of a claim, the license holder or
15 the license holder's surety fails or refuses to pay a final claim
16 paid from the trust fund for which a demand for reimbursement is
17 made ~~[participate in the informal dispute resolution process~~
18 ~~described by Section 1201.407].~~

19 SECTION 77. Section 1201.552, Occupations Code, is amended
20 to read as follows:

21 Sec. 1201.552. HEARING CONCERNING LICENSE. The director
22 may issue an order to revoke, suspend, or deny a new or renewal
23 license. If not later than the 30th day after the date the order is
24 issued the person against whom that order is issued requests a
25 hearing by giving written notice to the director, the director
26 shall set a hearing to be conducted by the State Office of
27 Administrative Hearings. If appeal is not timely made, the order

1 becomes final. The hearing and any related administrative
2 proceeding is a contested case under Chapter 2001, Government Code.
3 The board shall issue an order after receiving a proposal for
4 decision related to the case [~~shall conduct a hearing involving the~~
5 ~~denial, renewal, revocation, or suspension of a license in~~
6 ~~accordance with Chapter 2001, Government Code~~].

7 SECTION 78. Section 1201.553, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.553. JUDICIAL REVIEW. Judicial review of an
10 order, decision, or determination of the board or director is
11 instituted by filing a petition with a district court in Travis
12 County as provided by Chapter 2001, Government Code.

13 SECTION 79. Section 1201.605, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director
16 may assess against a person who fails to comply with [~~obtain or~~
17 ~~maintain a license as required by~~] this chapter or the rules adopted
18 under this chapter, or a final order adopted or issued as provided
19 by this chapter, an administrative penalty in an amount not to
20 exceed \$10,000 for each violation of this chapter and:

- 21 (1) reasonable attorney's fees;
- 22 (2) administrative costs;
- 23 (3) witness fees;
- 24 (4) investigative costs; and
- 25 (5) deposition expenses.

26 (b) The director may assess against a license holder
27 [~~retailer~~] who fails to provide information to a consumer as

1 required by this chapter an administrative penalty in an amount not
2 to exceed:

- 3 (1) \$1,000 for the first violation;
- 4 (2) \$2,000 for the second violation; and
- 5 (3) \$4,000 for each subsequent violation.

6 (c) In determining the amount of an administrative penalty
7 assessed under this section, the director shall consider:

- 8 (1) the seriousness of the violation;
- 9 (2) the history of previous violations;
- 10 (3) the amount necessary to deter future violations;
- 11 (4) efforts made to correct the violation; and
- 12 (5) any other matters that justice may require.

13 (d) If not later than the 30th day after the date the person
14 receives notice of an administrative penalty the person against
15 whom the penalty is issued requests a hearing by giving written
16 notice to the director, the director shall set a hearing to be
17 conducted by the State Office of Administrative Hearings. If
18 appeal is not timely made, the administrative penalty becomes
19 final. The hearing and any related administrative proceeding is a
20 contested case under Chapter 2001, Government Code. The board shall
21 issue an order after receiving a proposal for decision related to
22 the case.

23 SECTION 80. Subchapter M, Chapter 1201, Occupations Code,
24 is amended by adding Sections 1201.607 through 1201.611 to read as
25 follows:

26 Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR
27 HEARINGS. An order issued by the director under this chapter

1 automatically becomes a final order if the order is not appealed
2 before the 30th day after the date the order is issued. If the
3 person to whom the order is issued files a written request for a
4 hearing with the director, the order is considered to have been
5 appealed and is a contested case under Chapter 2001, Government
6 Code. The director shall set any appealed order for a hearing
7 before the State Office of Administrative Hearings. The board
8 shall issue a final order after receiving and reviewing the
9 proposal for decision related to the case.

10 Sec. 1201.608. INSPECTION OF LICENSE HOLDER RECORDS. (a)
11 The department may inspect a license holder's records during normal
12 business hours without advance notice if the director determines
13 that an inspection is necessary to:

14 (1) prevent a violation of this chapter;
15 (2) protect a consumer or another license holder; or
16 (3) assist another state or federal agency in an
17 investigation.

18 (b) The director may request or issue a subpoena for the
19 license holder's records.

20 (c) If the director determines that it is appropriate to
21 detect and address suspected violations of this chapter, the
22 department may carry out an undercover investigation in accordance
23 with board-adopted rules.

24 (d) While an investigation is pending, information obtained
25 by the department in connection with that investigation is
26 confidential unless disclosure of the information is specifically
27 permitted or required by other law.

1 Sec. 1201.609. CRIMINAL PENALTY FOR PERFORMING ACTION
2 WITHOUT PROPER LICENSE. (a) A person who is not required to hold a
3 license under this chapter commits an offense if the person
4 performs an act that requires a license under this chapter.

5 (b) An offense under this section is a Class B misdemeanor.
6 A subsequent conviction for an offense under this section is
7 punishable as a Class A misdemeanor.

8 Sec. 1201.610. CEASE AND DESIST. (a) If the director has
9 reasonable cause to believe that a person licensed under this
10 chapter has or intends to violate a provision of this chapter or the
11 rules adopted under this chapter, to enforce compliance with this
12 chapter the director may issue to the license holder without notice
13 and hearing an order to cease and desist from continuing a
14 particular action or an order to take affirmative action, or both.

15 (b) The director may issue an order to a license holder to
16 cease and desist from violating any law, rule, or written agreement
17 or to take corrective action with respect to the violation if the
18 license holder in any way is performing an action that relates to
19 the sale, financing, or installation of a manufactured home or
20 relates to providing goods or services in connection with the sale,
21 financing, or installation of a manufactured home, provided that if
22 the matter involves a law that is subject to administration or
23 interpretation by a state agency other than the department, the
24 director shall consult with the person in charge of the day-to-day
25 administration of that agency before issuing the order. The
26 director may not issue an order under this subsection with respect
27 to a matter that is subject to inspection and regulation by a state

1 agency other than the department.

2 (c) An order issued under Subsection (a) or (b) must contain
3 a reasonably detailed statement of the facts on which the order is
4 made. If a person against whom the order is issued requests a
5 hearing, the director shall set and give notice of a hearing. The
6 hearing is governed by Chapter 2001, Government Code. Based on the
7 findings of fact, conclusions of law, and recommendations of the
8 hearings officer, the board by order may find that a violation has
9 or has not occurred.

10 (d) If a hearing is not requested under Subsection (c)
11 before the 30th day after the date on which an order is issued, the
12 order is considered final and not appealable.

13 (e) The director, after giving notice, may impose against a
14 person who violates a cease and desist order an administrative
15 penalty in an amount not to exceed \$1,000 for each day of the
16 violation. In addition to any other remedy provided by law, the
17 director may institute in district court a suit for injunctive
18 relief and for the collection of the administrative penalty. A bond
19 is not required of the director with respect to injunctive relief
20 granted under this subsection.

21 (f) If a person fails to pay an administrative penalty that
22 has become final or fails to comply with an order of the director
23 that has become final, in addition to any other remedy provided
24 under law, the director, after the expiration of the 10-day period
25 following the date the director provides notice to the person, may,
26 without a prior hearing, suspend the person's license. The
27 suspension continues until the person has complied with the cease

1 and desist order or paid the administrative penalty. During the
2 period of suspension:

3 (1) the person whose license has been suspended may
4 not perform an act that requires a license under this chapter; and

5 (2) all compensation received by the person during the
6 period of suspension is subject to forfeiture to the person from
7 whom the compensation was received.

8 (g) An order of suspension under Subsection (f) may be
9 appealed. An appeal is a contested case governed by Chapter 2001,
10 Government Code. A hearing of an appeal of an order of suspension
11 issued under Subsection (f) must be held not later than the 15th day
12 after the date of receipt of the notice of appeal. The appellant
13 shall be provided notice of the time and place of the hearing not
14 later than the third day before the hearing is scheduled to occur.

15 (h) An order revoking the license of a retailer, broker,
16 installer, or salesperson may prohibit the person from being a
17 related person of a license holder unless the person obtains the
18 prior written consent of the director.

19 Sec. 1201.611. SANCTIONS AND PENALTIES. (a) The board
20 shall adopt rules relating to the administrative sanctions.

21 (b) If the person charged with a violation accepts the
22 director's determination with respect to an administrative
23 penalty, the director shall issue an order approving the
24 determination and ordering the person to pay the recommended
25 penalty.

26 (c) Not later than the 30th day after the date on which the
27 director's determination becomes final, the person charged shall:

1 (1) pay the penalty in full; or

2 (2) if the person files a petition for judicial review
3 contesting the facts of the violation, the amount of the penalty, or
4 both the facts of the violation and the amount of the penalty:

5 (A) forward the amount assessed to the department
6 for deposit in an escrow account;

7 (B) in lieu of payment into escrow, post with the
8 department a supersedeas bond for the amount of the penalty, in a
9 form approved by the director and effective until judicial review
10 of the decision is final; or

11 (C) without paying the amount of the penalty or
12 posting the supersedeas bond, pursue judicial review.

13 (d) A person charged with a penalty who is financially
14 unable to comply with Subsection (c) is entitled to judicial review
15 if the person files with the court, as part of the person's petition
16 for judicial review, a sworn statement that the person is unable to
17 meet the requirements of that subsection.

18 (e) If the person charged does not pay the penalty and does
19 not pursue judicial review, the department or the attorney general
20 may bring an action for the collection of the penalty.

21 (f) Judicial review of the director's order assessing the
22 penalty is subject to the substantial evidence rule.

23 (g) If, after judicial review, the penalty is reduced or not
24 assessed, the director as applicable shall remit to the person
25 charged the appropriate amount, including accrued interest if the
26 penalty has been paid, or shall execute a release of any supersedeas
27 bond that was posted. The accrued interest on amounts remitted by

1 the director under this subsection shall be paid at a rate equal to
2 the rate charged on loans to depository institutions by the New York
3 Federal Reserve Bank, and shall be paid for the period beginning on
4 the date that the assessed penalty is paid to the director and
5 ending on the date the penalty is remitted.

6 (h) A penalty collected under this section shall be
7 deposited in the trust fund.

8 (i) All proceedings conducted under this section and any
9 review or appeal of those proceedings are subject to Chapter 2001,
10 Government Code.

11 (j) If it appears that a person is in violation of, or is
12 threatening to violate, any provision of this chapter or a rule or
13 order related to the administration and enforcement of the
14 manufactured housing program, the attorney general, on behalf of
15 the division director, may institute an action for injunctive
16 relief to restrain the person from continuing the violation and for
17 a civil penalty of not more than \$1,000 for each violation and of
18 not more than \$250,000 in the aggregate. A civil action filed under
19 this subsection must be filed in a district court in Travis County.
20 The attorney general and the director may recover reasonable
21 expenses incurred in obtaining injunctive relief under this
22 subsection, including court costs, reasonable attorney's fees,
23 investigative costs, witness fees, and deposition expenses.

24 SECTION 81. Section 2306.0724, Government Code, is amended
25 by amending Subsection (d) and adding Subsection (e) to read as
26 follows:

27 (d) A housing sponsor who fails to file a report in a timely

1 manner is subject to the following sanctions, as determined by the
2 department:

- 3 (1) denial of a request for additional funding; or
4 (2) an administrative penalty in an amount not to
5 exceed \$1,000, assessed in the manner provided for an
6 administrative penalty under Subsection (e) [~~Section 2306.6023~~].

7 (e) In determining the amount of an administrative penalty
8 assessed under this section, the department shall consider:

- 9 (1) the seriousness of the violation;
10 (2) the history of previous violations;
11 (3) the amount necessary to deter future violations;
12 (4) efforts made to correct the violation; and
13 (5) any other matters that justice may require.

14 SECTION 82. Section 2306.186, Government Code, is amended
15 by amending Subsection (k) and adding Subsection (m) to read as
16 follows:

17 (k) The department shall assess an administrative penalty
18 on development owners who fail to contract for the third-party
19 physical needs assessment and make the identified repairs as
20 required by this section. The department may assess the
21 administrative penalty in the same manner as an administrative
22 penalty assessed under Subsection (m) [~~Section 2306.6023~~]. The
23 penalty is computed by multiplying \$200 by the number of dwelling
24 units in the development and must be paid to the department. The
25 office of the attorney general shall assist the department in the
26 collection of the penalty and the enforcement of this subsection.

27 (m) In determining the amount of an administrative penalty

1 assessed under this section, the department shall consider:

2 (1) the seriousness of the violation;

3 (2) the history of previous violations;

4 (3) the amount necessary to deter future violations;

5 (4) efforts made to correct the violation; and

6 (5) any other matters that justice may require.

7 SECTION 83. Section 2306.6022(b), Government Code, is
8 amended to read as follows:

9 (b) The division shall make available on its Internet
10 website [~~provide to the person filing the complaint and to each~~
11 ~~person who is a subject of the complaint a copy of~~] the division's
12 policies and procedures relating to complaint investigation and
13 resolution and provide a hard copy of that information to those
14 persons on request by those persons.

15 SECTION 84. Section 11.432, Tax Code, is amended by
16 amending Subsection (a) and adding Subsection (b-1) to read as
17 follows:

18 (a) For a manufactured home to qualify for an exemption
19 under Section 11.13 of this code, the application for the exemption
20 must be accompanied by:

21 (1) a copy of the statement of ownership and location
22 for the manufactured home issued by the manufactured housing
23 division of the Texas Department of Housing and Community Affairs
24 under Section 1201.207, Occupations Code, showing that the
25 individual applying for the exemption is the owner of the
26 manufactured home;

27 (2) [~~or be accompanied by~~] a verified copy of the

1 purchase contract showing that the applicant is the purchaser of
2 the manufactured home;

3 (3) a photostatic copy of the current title page for
4 the manufactured home as that page is displayed on the Internet
5 website of the Texas Department of Housing and Community Affairs;
6 or

7 (4) the applicable computer records of the Texas
8 Department of Housing and Community Affairs.

9 (b-1) The consumer is entitled to obtain the homestead
10 exemptions provided by Section 11.13 regardless of whether:

11 (1) an owner has elected to treat the manufactured
12 home as real property or personal property; or

13 (2) the home is listed on the tax rolls together with
14 the real property to which it is attached or is listed separately
15 from that property.

16 SECTION 85. Section 31.072, Tax Code, is amended by adding
17 Subsection (i) to read as follows:

18 (i) Notwithstanding Subsection (a), if the escrow account
19 will be used solely to provide for the payment of property taxes
20 collected on the property owner's manufactured home, the collector
21 shall enter into a contract under this section with a property owner
22 who:

23 (1) owns the manufactured home; and

24 (2) requests the establishment of the escrow account.

25 SECTION 86. Section 32.03, Tax Code, is amended by amending
26 Subsections (a-1), (a-2), and (b) and adding Subsections (b-1),
27 (b-2), and (b-3) to read as follows:

1 (a-1) With regard to a manufactured home, a tax lien may be
2 recorded at any time not later than the expiration of the six-month
3 period following the end of the calendar year for which the tax was
4 owed. The tax lien may be enforced if it has been recorded in
5 accordance with the laws in effect at the time of the recordation of
6 the lien. A properly recorded tax lien may not be enforced against
7 the owner of a new manufactured home who acquired the manufactured
8 home from a retailer as a buyer in the ordinary course of business
9 ~~[A tax lien against a manufactured home may not be enforced unless~~
10 ~~it has been recorded with the Texas Department of Housing and~~
11 ~~Community Affairs as provided by Section 1201.219, Occupations~~
12 ~~Code.~~

13 ~~[(1) before October 1, 2005; or~~
14 ~~[(2) not later than six months after the end of the~~
15 ~~year for which the tax was owed].~~

16 (a-2) A person may not transfer title of a manufactured home
17 until all tax liens perfected on the home have been filed in a
18 timely manner with the Texas Department of Housing and Community
19 Affairs and until all personal property taxes on the manufactured
20 home that accrued on each January 1 within 18 months of the date of
21 the sale are extinguished or satisfied and released. This
22 subsection does not apply to the sale of a manufactured home in
23 inventory.

24 (b) A bona fide purchaser for value or the holder of a lien
25 recorded on the manufactured home statement of ownership and
26 location is not required to pay any taxes that have not been
27 recorded with the Texas Department of Housing and Community

1 Affairs. In this section, "manufactured home" has the meaning
2 assigned by Section 32.015(b). Unless a tax lien has been filed in
3 a timely manner with the Texas Department of Housing and Community
4 Affairs, a taxing unit or an agent of the taxing unit may not use a
5 tax warrant or any other method to attempt to execute or foreclose
6 on the manufactured home as a result of the unfiled tax lien.

7 (b-1) A taxpayer is entitled to designate in writing which
8 tax year will be credited with a particular payment. If a taxpayer
9 pays all the amounts owing for a given year, the taxing unit shall
10 issue a receipt for the payment of the taxes for the designated
11 year.

12 (b-2) Notwithstanding any other provision of law, if a
13 manufactured home was omitted from the tax roll at any time before
14 the second anniversary of the date on which taxes are due, the
15 taxing unit may file a tax lien not later than the 150th day after
16 the date on which the tax becomes delinquent.

17 (b-3) If personal property taxes on a manufactured home have
18 not been levied by the taxing unit, the taxing unit shall provide
19 the prospective buyer of the manufactured home with an estimated
20 amount of taxes computed by multiplying the taxable value of the
21 manufactured home, according to the most recent certified appraisal
22 roll for the taxing unit, by the taxing unit's adopted tax rate for
23 the preceding tax year. To enable the transfer of the manufactured
24 home, the tax collector shall accept the payment of the estimated
25 personal property taxes and issue a certification to the Texas
26 Department of Housing and Community Affairs that the estimated
27 taxes are being held in escrow until the taxes are levied. Once the

1 taxes are levied, the tax collector shall apply the escrowed
2 amounts to the levied taxes. At the time that the tax collector
3 accepts the payment of the taxes, the tax collector shall notify the
4 taxpayer that the payment of the estimated taxes is an estimate that
5 may increase once the appraisal rolls for the year are certified.
6 The tax collector shall notify the new owner that the new owner of
7 the manufactured home may be liable for the payment of any
8 difference between the tax established by the certified appraisal
9 roll and the estimate actually paid.

10 SECTION 87. The following provisions are repealed:

- 11 (1) Section 1201.054(c), Occupations Code;
- 12 (2) Section 1201.059, Occupations Code;
- 13 (3) Section 1201.112, Occupations Code;
- 14 (4) Section 1201.163, Occupations Code;
- 15 (5) Sections 1201.214(c) and (d), Occupations Code;
- 16 (6) Section 1201.408, Occupations Code; and
- 17 (7) Section 2306.6023, Government Code.

18 SECTION 88. The changes in law made by this Act to
19 provisions of the Tax Code apply only to an ad valorem tax year that
20 begins on or after January 1, 2008. The changes in law made to those
21 provisions do not affect a tax lien that attached to property for a
22 tax year that began before January 1, 2008, and the law in effect
23 immediately before January 1, 2008, is continued in effect for
24 purposes of the tax lien.

25 SECTION 89. This Act takes effect September 1, 2007.